File No. 245

Collection No.

19 33.

Mysore Residency

Bangalore.

Pros. Serial Nos. 1-6

Subject.

Levy of surcharge on the duty imposed by the Indian Stamp Act on Court Sale Certificates.

Previous References.

Later References.

S. 97.—(Blue).

MFP—168S&P—(M-184)—11-8-34—60,000.

H. O.
14 2,000—16—7—1931.

No. 2107/33 CIVIL AND MILITARY STATION, BANGALORE.
MUNICIPAL OFFICE.
DATED 7th April 1933.

From

G. H. COOKE, ESQ., M. C., I. C. S.,
President, Municipal Commission,
C. & M. Station, BANGALORE.

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

19-4-33 from H C

SIR

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
10 APR. 1933
Regd. No. 3289
File No.

Indexed

Subject:- Surcharge on the duty imposed by the Indian Stamp Act of 1899 on all instruments of transfer of immovable property, by sale, gift etc.

I have the honour to inform you that it has come to my notice that while the Courts have been collecting the surcharge on all sales, the amounts so collected have been credited to Government.

When I addressed the District Judge on this subject. he informed me that, the presiding Judge being the Vendor in Court sales, the notification imposing surcharge cannot apply and so the question of amending the notification so as to make it incumbent on Courts to collect surcharge is being considered.

As the Government are not entitled to the amount collected, I request to obtain the sanction of the Hon'ble the Resident to refund the amount so collected, to the Municipal Commission on grounds of equity, if not on legal grounds.

I have the honour to be,
Sir,
Your most obedient servant,

7.4.33.

President, M. C.

MVL.

7/4/33

4242
Encl

9/6/33

2

No. 2107/33, dated the 7th April 1933, from the President, Munl. Commn. C.& M. Stn., Bangalore.

S.R. 1
P.U.C.

A copy of the marginally noted letter is forwarded to the Dist. and Sessions Judge, C.& M. Station, -- Bangalore, for favour of remarks.

26/33

For Secy. to the Resident.

S. Singaroyan
27-5-33

7/8/6

Letter No.2003, dated the 31st May 1933, from the District and Sessions Judge, Civil & Military Station, Bangalore, to the Inspector-General of Registration, Civil & Military Station, Bangalore.

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Levy of surcharge on the duty imposed by the Indian Stamp Act on Court Sale Certificates.

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(1)

With reference to your Memorandum No.7 dated the 23rd instan I have the honour to forward herewith copies of letter No.216/33, dated 10th January 1933 addressed by the President, Municipal Commission, Bangalore to the District Judge and the latter's (my predecessor's reply thereto No.298 dated 18th January 1933 on the above subject for your information. I have only to add that there is no record in this office to show that any amount has been collected as surcharge on Court sale certificates from 1st December 1921 up to 31st March 1933.

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Copy of letter No.216/33, dated the 10th January 1933, from the President, Municipal Commission, Civil and Military Station, Bangalore, to the District Judge, Civil & Military Station, Bangalore.

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(2)

I have the honour to request you to let me know whether the surcharge collected on transfer of immovable property in the cases of court sales is credited to Government or paid to the Commission. If it is the former, please state why the Municipal share of the amount should not be made over to the commission.

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Copy of letter No.298, dated 18th January 1933, from C.V. Reddi Esq., B.A., B.L., District and Sessions Judge, Civil and Military Station, Bangalore, to the President, Municipal Commission, Civil & Military Station, Bangalore.

(3)

With reference to your letter No.216/33, dated 10th January 1933, I have the honour to state that no surcharge is being collected on Court sales. I am of opinion that no surcharge is leviable on Court sale certificates for the following reasons:-

1. The Notification imposing surcharge says that the surcharge must be levied from the transferor. In Court sales the transferor being the presiding Judge i.e. Government, Court sale certificates are exempt from liability to payment of such duty.

2. The Notification imposing surcharge does not provide for Courts collecting the same in cases of involuntary transfers governed by article 18 of the Indian Stamp Act.

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"C O P Y"

1233—22-3-1929—4,000—RPB.

4

No. 2432 Enclos.

District and Sessions Court,
Civil and Military Station,
Bangalore, dated 20th June *19*33.

From

P. Medapa Esq., B.A.,B.L.,
DISTRICT AND SESSIONS JUDGE,
CIVIL AND MILITARY STATION,
BANGALORE.

To

The Secretary, to the Hon'ble
the Resident in Mysore,
C.& M.Station, Bangalore.

Sir,

OFFICE OF THE RESIDENT IN MYSORE.
BANGALORE.
22 JUNE 1933
Regd. No. 5428.
Pol. No. 245/33.

Subject:- Levy of surcharge on the duty imposed by the Indian Stamp Act on Court sale certificates - Reference:- Your letter No.4242 dated 9-6-1933.

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I have the honour to confirm my predecessor's statement contained in his letter No. 298 dated 18-1-1933 to the President, Municipal Commission, Bangalore (a copy of which was sent to you with my letter No. 2003 dated 31-5-1933) that no amount has been collected as surcharge on Court sales till now. It will be obvious therefore that no surcharge has been credited by the Courts to Governme[illegible]

2. I agree with the opinion of my predecessor stated in paragraph 2 of his letter No. 298 dated 18-1-33 that the notification imposing surcharge does not provide for Courts to collect the same in cases of involuntary transfers governed by Article 18 of the Indian Stamp Act. In the absence of any such legal provision, I do not think the Civil Courts can levy the surcharge in the case of Court-sales.

3. If any of the purchasers of immovable properties in Court-sales have tendered to Court stamp-papers of value

P.T.O.

greater than that required under the Indian Stamp Act I do not think that the Municipal Commission can ask for the payment of the excess to them treating such excess as a surcharge on the stamp-duty, when in fact the parties themselves have not paid such excess as surcharge and the Courts too have not collected such excess as surcharge. If any excess of stamp-duty has been paid by parties in ignorance of the ~~xf xxx~~ correct duty, the amount of such excess will, in my opinion, either lapse to Government or have to be refunded to the parties concerned on their application to the Collector in accordance with law. In any event, I do not think the local Municipal Commission can lay claim to the above amount.

I may reiterate that there is no record in this office to show that any amount has been collected as surcharge on Court sale certificates from 1-12-1921 up to 31-3-1933.

I have the honour to be,

Sir,

Your most obedient servant,

PSR.

District and Sessions Judge.

15

All Communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

8042

No. ~~245/1933.~~

FROM Major G. Kirkbride, I.A.,

SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To The President,
Municipal Commission,
Civil and Military Station, Bangalore.

Dated, Bangalore, the 31st August *193*3.

Subject.
Levy of Surcharge on the duty imposed by the Indian Stamp Act on Court Sale certificates.

SIR,

S.N.I

I am directed to refer to your letter No.2107/33 dated the 7th April 1933 on the subject mentioned above and to inform you that no surcharge has been collected on Court sales till now and consequently no amount has been credited to Government on this account.

I have the honour to be,
Sir,
Your most obedient servant,

for SECRETARY TO THE RESIDENT.

PKH